

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DARRYL PHELPS,

Plaintiff,

20 CIVIL 10352 (KPF)

-against-

JUDGMENT

SUPERINTENDENT, Gouverneur Correctional Facility,

Defendant.

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It is hereby **ORDERED, ADJUDGED AND DECREED:** That for the reasons stated in the Court's Opinion and Order dated June 7, 2021, the Respondent's motion to dismiss the Petition is GRANTED in full and Petitioner's request to stay the Petition is DENIED. Petitioner's Eighth Amendment and parole denial claims are DISMISSED without prejudice, subject to renewal in a separate petition after Petitioner exhausts his state court remedies. Petitioner is DENIED leave to amend his petition to include claims regarding the validity of his underlying 1998 conviction. The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from the Order would not be taken in good faith, and therefore in forma pauperis ("IFP") status is denied for the purpose of an appeal. Cf. *Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue). Furthermore, the Court has declined to issue a certificate of appealability pursuant to 28 U.S.C. § 2253(c)(1)(A), as Petitioner has not "made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2); accordingly, the case is closed.

DATED: New York, New York
June 7, 2021

RUBY J. KRAJICK

Clerk of Court

BY:

K. mango

Deputy Clerk